IN THE HIGH COURT OF JUDICATURE AT BOMBAY
Appellate Side
Arbitration Petition No.34 of 2006

M/s.Elite Construction Co. ... Petitioner
v/s.
1. The Commissioner,
Nasik Municipal Corporation
& anr. ... Respondents

Mr.Sureshkumar for petitioner.
Mr.V.A.Gangal for respondents.

CORAM : H.L. GOKHALE, ACTING C.J.

DATED : 2nd February 2007

P.C. :

1. Heard the learned Counsel for the parties.

2. The clause under which the arbitration is sought to be invoked is similar to one which has been held to be not an arbitration clause in three judgments of the Apex Court viz. **(i) State of U.P. vs. Tipper Chand reported in (1980) 2 SCC 341, (ii) State of Orissa vs. Damodar Das reported in (1996) 2 SCC 216 and (iii) Bharat Bhushan Bansal vs. U.P. Small Industries Corporation Ltd. reported in AIR 1999 SC 899**.

3. In view of the above position, there is no occasion to refer the controversy to arbitration. Petition is rejected.

4. Mr.Sureshkumar appearing for the petitioner states that the petitioner may make a representation to the Nasik Municipal Corporation. In the event any such representation is made, it will be expected of the Municipal Corporation to look into the representation and decide it appropriately.

(ACTING C.J.)